

AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 913

Introduced by Senator Pavley

February 18, 2011

An act to amend Section 739 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 913, as amended, Pavley. Juvenile offenders: medical care.

Under existing law, when a minor is taken into temporary custody and is in need of medical, surgical, dental, or other remedial care, the probation officer may authorize the performance of that care, as specified. Existing law requires the probation officer to notify the minor's parent or guardian prior to the provision of the medical care.

This bill would additionally permit a probation officer to authorize a medical exam that complies with the regulations promulgated by the Corrections Standards Authority, without regard to the minor's need for medical care. The bill would also ~~provide that the officer may, if he or she first makes an unspecified effort, permit the probation officer to~~ authorize the performance of reasonable medical or dental care if the minor is in need of the care and upon the recommendation of the attending physician or dentist, *as specified*. The bill would ~~additionally authorize any followup treatment recommended by the physician as a result of the medical exam, if the minor remains~~ *permit the probation officer to authorize additional treatment necessary for the health of the minor and recommended by the physician if the minor remains in the*

temporary custody of the probation officer. This bill would also require the probation officer to make reasonable efforts to notify and obtain the consent of the minor's parent or guardian prior to the provision of the medical or dental care.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 739 of the Welfare and Institutions Code
2 is amended to read:

3 ~~739. (a) Whenever any person is taken into temporary custody~~
4 ~~under Article 15 (commencing with Section 625), the probation~~
5 ~~officer may authorize a medical exam that complies with the~~
6 ~~regulations promulgated by the Corrections Standards Authority.~~
7 ~~If the person is in need of medical, surgical, dental, or other~~
8 ~~remedial care, and the probation officer has made a reasonable but~~
9 ~~unsucccessful effort to notify the parent, guardian, or person~~
10 ~~standing in loco parentis of the person, the probation officer may,~~
11 ~~upon the recommendation of the attending physician and surgeon~~
12 ~~or, if the person needs dental care and there is an attending dentist,~~
13 ~~the attending dentist, authorize the performance of that medical,~~
14 ~~surgical, dental, or other remedial care. The probation officer also~~
15 ~~may authorize additional treatment necessary for the health of the~~
16 ~~minor that is recommended by the physician as a result of the~~
17 ~~medical examination, provided that the minor remains in the~~
18 ~~temporary custody of the probation officer. The probation officer~~
19 ~~shall make reasonable efforts to notify and obtain the consent of~~
20 ~~the parent, guardian, or person standing in loco parentis of the~~
21 ~~person, if any, of the care found to be needed before the care is~~
22 ~~provided, and if the parent, guardian, or person standing in loco~~
23 ~~parentis objects, the care shall be given only upon order of the~~
24 ~~court in the exercise of its discretion.~~

25 739. (a) Upon referral to the probation officer of a minor
26 who has been taken into temporary custody under Section 625,
27 the probation officer may authorize a medical examination that
28 complies with regulations adopted by the Corrections Standards
29 Authority. If the minor is retained in custody by the probation
30 officer, and prior to the court detention hearing required under
31 Section 632, the probation officer may authorize medical or dental

1 *treatment or care based on the written recommendation of the*
2 *examining physician and considered necessary for the health of*
3 *the minor. No treatment or care under this subdivision may be*
4 *authorized by the probation officer unless the probation officer*
5 *has made a reasonable effort to notify and to obtain the consent*
6 *of the parent, guardian, or person standing in loco parentis for*
7 *the minor; and, if the parent, guardian, or person standing in loco*
8 *parentis objects, the treatment or care shall be given only upon*
9 *order of the court in the exercise of its discretion. The probation*
10 *officer shall document the efforts made to notify and obtain*
11 *parental consent under this subdivision and shall enter this*
12 *information into the case file for the minor.*

13 (b) Whenever it appears to the juvenile court that any person
14 concerning whom a petition has been filed with the court is in need
15 of medical, surgical, dental, or other remedial care, and that there
16 is no parent, guardian, or person standing in loco parentis capable
17 of authorizing or willing to authorize the remedial care or treatment
18 for that person, the court, upon the written recommendation of a
19 licensed physician and surgeon or, if the person needs dental care,
20 a licensed dentist, and after due notice to the parent, guardian, or
21 person standing in loco parentis, if any, may make an order
22 authorizing the performance of the necessary medical, surgical,
23 dental, or other remedial care for that person.

24 (c) Whenever a person is placed by order of the juvenile court
25 within the care and custody or under the supervision of the
26 probation officer of the county in which the person resides and it
27 appears to the court that there is no parent, guardian, or person
28 standing in loco parentis capable of authorizing or willing to
29 authorize medical, surgical, dental, or other remedial care or
30 treatment for the person, the court may, after due notice to the
31 parent, guardian, or person standing in loco parentis, if any, order
32 that the probation officer may authorize the medical, surgical,
33 dental, or other remedial care for the person by licensed
34 practitioners, as may from time to time appear necessary.

35 (d) (1) Whenever it appears that a minor otherwise within
36 subdivision (a), (b), or (c) requires immediate emergency medical,
37 surgical, or other remedial care in an emergency situation, that
38 care may be provided by a licensed physician and surgeon or, if
39 the minor needs dental care in an emergency situation, by a licensed
40 dentist, without a court order and upon authorization of a probation

1 officer. If the minor needs foot or ankle care within the scope of
2 practice of podiatric medicine, as defined in Section 2472 of the
3 Business and Professions Code, a probation officer may authorize
4 the care to be provided by a podiatrist after obtaining the advice
5 and concurrence of a physician and surgeon. The probation officer
6 shall make reasonable efforts to obtain the consent of, or to notify,
7 the parent, guardian, or person standing in loco parentis prior to
8 authorizing emergency medical, surgical, dental, or other remedial
9 care. ~~“Emergency situation,” for the purposes of this subdivision~~
10 ~~care.~~

11 (2) *For purposes of this subdivision, “emergency situation”*
12 *means a minor requires immediate treatment for the alleviation of*
13 *severe pain or an immediate diagnosis and treatment of an*
14 *unforeseeable medical, surgical, dental, or other remedial condition*
15 *or contagious disease—*~~which~~ *that, if not immediately diagnosed*
16 *and treated, would lead to serious disability or death. An emergency*
17 *situation also includes known conditions or illnesses that, during*
18 *any period of secure detention of the minor by the probation officer,*
19 *require immediate laboratory testing, medication, or treatment to*
20 *prevent an imminent and severe or life-threatening risk to the*
21 *health of the minor.*

22 (e) In any case in which the court orders the performance of
23 any medical, surgical, dental, or other remedial care pursuant to
24 this section, the court may also make an order authorizing the
25 release of information concerning that care to probation officers,
26 parole officers, or any other qualified individuals or agencies caring
27 for or acting in the interest and welfare of the minor under order,
28 commitment, or approval of the court.

29 (f) Nothing in this section shall be construed as limiting the
30 right of a parent, guardian, or person standing in loco parentis,
31 who has not been deprived of the custody or control of the minor
32 by order of the court, in providing any medical, surgical, dental,
33 or other remedial treatment recognized or permitted under the laws
34 of this state.

35 (g) The parent of any person described in this section may
36 authorize the performance of medical, surgical, dental, or other
37 remedial care provided for in this section notwithstanding his or
38 her age or marital status. In nonemergency situations the parent
39 authorizing the care shall notify the other parent prior to the
40 administration of the care.

1 (h) Nothing in this section shall be construed to interfere with
2 ~~a minor's right to make medical decisions pursuant to existing~~
3 ~~law.~~ *a minor's right to authorize or refuse medical, surgical,*
4 *dental, or other care when the minor's consent for care is sufficient*
5 *or specifically required pursuant to existing law, or to interfere*
6 *with a minor's right to refuse, verbally or in writing, nonemergency*
7 *medical and mental health care.*

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